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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Amendment of Part 90 of the)
Commission's Rules to Facilitate)
Future Development of SMR Systems)
in the 800 MHz Frequency Band)

and)

Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding 800 MHz SMR)

PR Docket No. 93-144
RM-8117, RM-8030
RM-8029

PP Docket No. 93-253

To: The Commission

REPLY COMMENTS

Qualicom Systems, Inc. ("QSI"), submits these its Reply Comments in connection with the Further Notice of Proposed Rule Making ("FNRPM"), FCC 94-271, released November 4, 1994 in the above-referenced matter. The time for filing reply comments was extended to and including March 1, 1995 by Order released January 18, 1995.

Introduction

QSI currently operates SMR facilities pursuant to authorizations under Part 90 of the FCC Rules in southwest Florida. In the past, QSI, and its principal, James A. Dwyer, have been involved in various mobile communications operations including facilities licensed under Parts 21 and 22 of the Commission's Rules. QSI filed Reply Comments in response to the Further Notice of Proposed Rule Making, FCC 94-100, in GN Docket

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No. 93-252 generally supporting the Commission's goals "to ensure symmetrical regulatory treatment of competing mobile service providers, to promote further competition and economic growth in the mobile services marketplace, and to establish an appropriate level of regulation to protect mobile service consumers". However, QSI urged the Commission to ensure that all similarly situated CMRS operators, including SMR operators, are subject to the same rules. Exceptions cannot be tolerated if the Commission is to achieve its objective of providing for competition and economic growth and a level playing field for the various CMRS competitors.

Reply Comments

QSI is encouraged that the Commission in the Further Notice of Proposed Rule Making here has in its wide-area SMR licensing scheme abandoned the earlier proposal for ESMR operations that would have permitted the ESMR group to decide who is dominant in each area with the dominant entity getting the spectrum. Nonetheless, care must be given to the treatment of incumbent systems. The Commission rightly recognizes that Nextel's "band clearing" approach should not be adopted. There would be significant costs and disruption to incumbent licensees and their customers. Likewise, the requirement for continued station specific interference criteria with respect to all incumbent co-channel stations is appropriate.

Finally, QSI urges the Commission to ensure the integrity of the licensing process which is necessary to ensure the level playing field. There has been much criticism recently of SMR license application processing. See, for example, allegations concerning processing of OneComm applications prior to "freeze". In its Order, DA 95-263, released February 17, 1995, approving the OneComm/Nextel merger, the Commission conditioned the transfer on the ultimate outcome of these license challenges. While QSI recognizes that this is not the proceeding to deal the specific allegations in connection with the OneComm application matters, it does believe that the integrity of the

application process is essential to the Commission's achieving its goals of creating competition and a level playing field in the CMRS area.

QSI has also brought to the attention of the Commission application irregularities in Florida. See QSI Petition to Rescind, Institute Revocation Proceeding and/or Investigation, dated November 29, 1993, concerning American Mobile Systems Incorporated. Thus, before the Commission is in a position to freeze incumbent SMR operations to further its MTA licensing scheme, it must ensure that existing SMR operations have not been unduly and reasonably blocked by sham applications designed for that very purpose.

In closing, QSI urges care in developing its transition rules. The Commission must ensure that any transition is not an opportunity for various players to enhance their competitive advantage vis a vis others that will become part of the new commercial mobile radio services.

QSI requests that the Commission take these reply comments into consideration in finalizing its rules in this proceeding.

Respectfully submitted,

QUALICOM SYSTEMS, INC.

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